THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24402 of 2005

Date: 16.11.2005

Between:

R.S.R.Yadav.

.. PETITIONER

AND

The Depot Manager, APSRTC and another.

.. RESPONDENTS

ORDER:

The petitioner is employed as a Driver in APSRTC. He was issued a Charge Sheet, dated 26.06.1997, on the allegation that he caused an accident on 15.05.1997 and that he was required to submit the explanation as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation on 01.07.1997. On a consideration of the same, the respondent passed an order, dated 31.07.1997, imposing the penalty of stoppage of annual increment for a period of two years with cumulative effect. The petitioner challenges the same in this writ petition.

The only point urged by Sri S.A.K.Mynoddin, the learned counsel for the petitioner, is that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect, without conducting departmental enquiry. He placed reliance upon the Judgment of the Apex Court i n ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by

conducting departmental enquiry.

Sri R.Manmadha Reddy, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of stoppage of annual increment for a period of two years with cumulative effect on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's*** case (1 supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment without cumulative effect.

Hence, the Writ Petition is partly allowed, directing that the order, dated 31.07.1997, passed by the respondent shall be treated as the one for stoppage of annual increment for a period of two years without cumulative effect and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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16.11.2005

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